

ORIGINAL

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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JUN 19 1997Federal Communications Commission
Office of Secretary

In the Matter of)	
)	
Amendment of Section 2.106 of the)	ET Docket No. 95-18
Commission's Rules to Allocate)	RM-7927
Spectrum at 2 GHz for Use)	PP-28
by the Mobile-Satellite Service)	

To: The Commission

**OPPOSITION TO
PETITION FOR PARTIAL RECONSIDERATION
OF THE
MSS COALITION**

Pursuant to Section 1.405 of the Commission's rules, 47 C.F.R. § 1.405, the Fixed Point-to-Point Communications Section, Network Equipment Division of the Telecommunications Industry Association ("TIA")¹, opposes grant of the Petition for Partial Reconsideration filed by the MSS Coalition ("Petition")² in the above-captioned First Report and Order and Further Notice of Proposed Rulemaking (FCC 97-93, released March 14, 1997).³ In the Petition, the MSS Coalition seeks partial

¹TIA is the principal industry association representing fixed point-to-point microwave radio manufacturers. TIA members serve, among others, companies, including telephone carriers, utilities, railroads, state and local governments, and cellular carriers, licensed by the Commission to use private and common carrier bands for provision of important and essential telecommunications services.

²See Petition for Partial Reconsideration filed by the MSS Coalition on May 20, 1997. The Petition appeared on public notice in the Federal Register on June 4, 1997. 62 FR 30586.

³Herein, the First Report and Order shall be referenced as the "Order" and the Further Notice of Proposed Rulemaking shall be referenced as the "Further Notice."

reconsideration of the following Commission decisions: (a) providing Broadcast Auxiliary Service ("BAS") licensees with more than the 85 MHz of spectrum at 2025-2110 MHz because of their incompatibility with Mobile-Satellite Service ("MSS") licensees; and (b) requiring MSS operators to pay incumbent fixed point-to-point microwave service ("FS") and BAS relocation expenses. As detailed herein, the MSS Coalition's position in the Petition is overly parochial and is unacceptable. First, in evaluating the MSS Coalition's claims regarding the BAS allocation, the Commission must recognize that FS and BAS users also cannot share spectrum. Second, and more importantly, the new allocation for MSS users will force further FS evacuation of the 2 GHz band.

**THE COMMISSION MUST RECOGNIZE
THAT BAS AND FS OPERATIONS
ARE INCOMPATIBLE**

In the Petition, the MSS Coalition addresses the incompatibility between BAS and MSS operations in the 2 GHz band.⁴ Similarly, BAS operations are incompatible with FS operations. The very nature of BAS operations (i.e., rapid mobile deployment, antenna patterns, and temporary nature) effectively precludes any type of sharing with FS. Thus, it is imperative that the Commission recognize this incompatibility between BAS and FS users as it implements the reallocations made in the Order.

**MSS USERS MUST REIMBURSE
FS RELOCATION COSTS**

The MSS Coalition, in the Petition, argues that MSS users should not be

⁴Petition at Section IV, page 24 et seq.

required to reimburse FS user relocation costs. It claims that it would be unfair to impose such a requirement because of the magnitude of potential MSS financial exposure to meet this requirement. TIA strongly disagrees with the MSS Coalition's position. All relocation costs should be paid entirely by the MSS providers, consistent with agency precedent.

In its Order, the Commission made clear its intention of reaccommodating "existing BAS and FS operations in the 1990-2025 MHz, 2110-2130 MHz, and 2165-2200 MHz bands in accordance with the policies we established in our Emerging Technologies proceeding."⁵ Pursuant to the rules adopted in that proceeding, the Commission has charted a fair and equitable policy which encourages the introduction of new technologies while, at the same time, preventing disruption to existing 2 GHz operations and minimizing the economic impact on existing licensees. The Commission should not abandon this judicious policy on the basis of the self-serving arguments the MSS Coalition has presented.

In this regard, it is important to emphasize that the Commission's relocation rules are triggered only when frequency sharing is impossible. As the Commission has noted, "[t]he MSS and FS industries are currently developing interference standards under the good offices of TIA. We propose to adopt those standards, or their successors, in determining whether our sunset rules would apply to a given FS

⁵See Order, para. 1, See also Order, para. 42.

incumbent.”⁶ The current Part 25 interference criteria for FS systems do not apply because they are based on the geostationary satellite service. The work of the Joint Working Group (TR 14.11/34.2) is in progress and should not be sidetracked by the MSS Coalition’s misguided efforts.

Consistent with well-established Commission precedent, if relocation of FS services becomes necessary, the costs should be borne by the MSS interests. This was the case for the PCS interests when FS users had to abandon the 2 GHz band. Equity demands that MSS users be treated in a similar fashion.

In this regard, the efforts of the MSS Coalition to distinguish its burden from PCS is entirely without merit. As in the case of PCS systems at 1.9 GHz, when sharing with MSS is not possible at 2.1 GHz, the Commission intends to require relocation of the incumbent FS users. While the MSS Coalition argues the magnitude of the cost for relocating the FS is great (approaching \$1 billion), it is not fair or equitable to expect the FS to carry the burden. After all, it is the MSS that is introducing the proposed new service into an already busy spectrum environment. And it is the MSS users which will benefit directly from the FS relocation. The FS is providing on-going essential communications to users -- it would be costly to those users to redesign and rebuild currently operational systems in an entirely different frequency band, e.g., above 5 GHz. The Commission should not be influenced by the sweeping and undocumented claims of high cost to the MSS interests if required to pay relocation costs.

⁶ibid. at para. 77.


In the Petition, the MSS Coalition also argues that the circumstances faced by MSS operators in the 2 GHz band are “entirely different from those faced by PCS operations” and since MSS is, unlike PCS, a “national” service, because sharing between MSS and FS operations “may well be possible.” Petition at pages 28-30. In its advocacy, the MSS conveniently overlooks the fact that the relocation costs of any given PCS licensee depend on the size of its system, and that several licensees plan to build regional and/or nationwide networks. In any event, the fate of incumbent 2 GHz FS licensees has never depended on the size of any new licensee’s proposed network, and should not do so now.


Similarly without merit is the claim by the MSS Coalition that the extension of relocation rules will encourage incumbents to demand reimbursed relocation rather than continue to cooperate efforts to share spectrum. . . .” Id. at page 30. The insinuation that incumbent FS licensees will not negotiate in good faith is both baseless and improper. Further, this argument illogically assumes that MSS interests will have an incentive to negotiate in good faith if the relocation rules are rescinded.

In conclusion, TIA urges the Commission to deny the Petition for Reconsideration filed by the MSS Coalition and reassert the obligation of MSS users to pay relocation costs.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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